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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/022,476	12/18/2001	Jonah Shacknai	00-40175-US-P	4300

7590 03/29/2004

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EXAMINER

LEVY, NEIL S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 03/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/022,476	SHACKNAI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Neil Levy	1616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-117 is/are pending in the application.
- 4a) Of the above claim(s) 4,9,13,15,27 and 30-115 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,5-8,10-12, 14,16-26,28,29,116 & 117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-117 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 4, 9, 13, 15, 27, 30-115 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected applicant's comments on claim 24, 27 are appreciated; claims 58 is to a cleanser; non-elected species and invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Claims 1-3, 5-8, 10, 12, 14, 16-26, 28, 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant has failed to; identify wherein the specification "substantially free of imidazole" is found – Examiner fails to find this constraint.

Claims 1-3, 10, 12, 14, 16-26, 28, 29, 116, 117 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims ~~Now~~ recite compounds not specifically identified (mercaptans, for example) and hydrogen sulfide and sulfuric acid, at unidentified levels and concentrations <sup>we</sup> believe it is generally known to avoid exposure

to these caustic materials; regardless of their likely control of mites only limited S has been shown effective (claims 116, 117).

Claims 1, 2, 5-8, 10, 11, 14, 17, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Suzuki – JP 3002124.

The rejection of record is maintained.

The method steps are disclosed mites need not be required, as there is no identification of When Suzuki would apply the composition; whether or not mites was of concern.

Claims 1-3, 10-12, 14, 17, 18 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Marry '73.

The rejection of record is maintained.

Claims 10-12, 14, 17-24, 26, 28, 29 are rejected under 35 U.S.C. 102(e) as being Bhagen et al by 6429231.

The rejection of record is maintained.

Claims 1-3, 5-8, 10-12, 14, 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki or Marry in view of Bonner et al '93, Lin et al '88 and Kligman - 4752472.

The rejection of record is maintained.

Applicant's arguments filed on 12/08/03 have been fully considered but they are not persuasive. In essence, applicant argues the prior art fails to show mite treatment. Examiner finds skin conditions treated can include mite caused syndromes of the form disclosed prior art. Thus, the mites may or may not be there, but treatment is that as

instantly claimed. Further, mite conditions, scabies are well known, and old remedies include sulfur ointments, lotions baths including lime – sulfur preparations.

Claims 1-3, 10, 14, 16-19, 28, 29, 116, 117 are rejected under 35 U.S.C. 102(b) as being anticipated by Milks - 1949.

See p.553-560, for many S mixtures for mite control, imidazole-free –see Ex. 3, 8 P.555, and Top dp 556.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neil Levy whose telephone number is (571) 272-0619. The examiner can normally be reached on Tuesday through Friday 7 AM to 5:30 Pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Levy/LR  
March 23, 2004

**NEIL S. LEVY**  
**PRIMARY EXAMINER**